



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

April 19, 2017

*Via Email*

Bob Brown, Director  
Western States Petroleum Association  
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Concord, CA 94520  
[bbrown@wspa.org](mailto:bbrown@wspa.org)

Dear Mr. Brown,

This email is in response to your comment letter dated March 27, 2017. Thank you for your comments on the proposed amendments to Regulation 3 – Fees for Fiscal Year 2018.

***Comment 1: WSPA expresses general concern with the District fees, including the level of refining industry fee increases, which WSPA characterizes as higher than that for other sectors and the Consumer Price Index, and also with the transparency around fee development and cost containment.***

**Air District Response to Comment 1:** The Air District's fee increases over the past decade have been part of the District's effort to address a very large deficit between the District's fee revenue and its program costs. The Air District's goal has been to decrease the cost recovery gap in existing fees and programs and to adequately fund new programs as the Air District undertakes them. Significant Air District expenditures stem from the regulation of sources at large industrial facilities, such as at the Bay Area refineries. The District produces reports each year that are available for public review that provide revenue and expense information to the public. The annual District Budget, annual Cost Recovery Study, and annual Amendments to Regulation 3 (Fees) Staff Report contain the key information on the District's budget, cost containment, and fee assessment.

***Comment 2: WSPA expressed concern with the District assessing a fee for proposed Regulation 11-18, which has yet to be adopted. WSPA commented that fees should be proposed only after a rule has been adopted and program and implementation costs have been accurately and transparently assessed.***

**Air District Response to Comment 2:** These proposed fees are intended to recover the District's costs associated with implementation of proposed Regulation 11, Rule 18, which is scheduled for Board of Directors adoption consideration in July 2017. Based on the proposed Regulation 11, Rule 18 Draft Staff Report (Table 5, page 34), the District anticipates that HRAs may be required starting in 2017. Therefore, the District needs these fees included in these proposed fee amendments for FYE 2018.

The District believes that the HRAs are needed and that the program proposal has been adequately developed. Also, the District has completed the Request for Qualifications process, which has identified many consultants qualified and capable of conducting these important HRAs.

***Comment 3: WSPA expressed concern regarding the District's progress in cost recovery closure and asks that this issue be addressed more comprehensively.***

**Air District Response to Comment 3:** The Air District will be working on an update to its comprehensive cost recovery and containment study this year. A Request for Proposals was distributed recently. The Air District plans to invite WSPA to participate on the Steering Committee for the study.

***Comment 4: WSPA appreciates the District's inclusion of Supplemental Supporting Information provided on March 14, 2017 to address general cost containment efforts and cost assessment analysis for the proposed rules. WSPA requests that a Workshop Report or Staff Report document accompany future annual Regulation 3 rule amendments at the same time the proposed rule amendments are published or during the Workshop at the latest.***

**Air District Response to Comment 4:** We are glad to hear that the Supplemental Supporting Information document was helpful to you. The Air District staff will make every effort to release supporting information for future proposed amendments to Regulation 3: Fees once it is ready for public review.

***Comment 5: WSPA asks whether proposed Regulation 3-341 Fee for Risk Reduction Plan is for the number of sources associated with the entire facility, or only for sources for which a Risk Reduction Plan is proposed. WSPA also expressed concern regarding the basis for some of the District's cost estimates related to the review of HRAs.***

**Air District Response to Comment 5:** The fee is based on the number of sources subject to risk reduction per Regulation 11-18-301. That includes sources subject to Section 11-18-301.1 and 11-18-301.2. District staff estimated the initial review costs for the Risk Reduction Plan based on District engineering staff's experience with similar processes. The District also encourages WSPA to submit any recommendations it may have on ways to streamline this review process.

***Comment 6: WSPA requests that the District complete a cost assessment and document cost-containment details to support the proposed fees.***

**Air District Response to Comment 6:** The 2017 Cost Recovery Study has been completed and posted on the District website for the 4/19/2017 Board Hearing date at: <http://www.baaqmd.gov/rules-and-compliance/rule-development/public-hearings>.

***Comment 7: WSPA comments that for transparency, budget, cost containment and fee assessment should be addressed together in one comprehensive document. WSPA comments that specifically, the proposed historical fee percentage increases and cost containment for certain categories should be available for side-by-side comparison in both the Regulation 3 Fees document, as well as the Budget and Finance Committee document. WSPA asserts that fees for the refining sector have increased between 7% and 9% annually and that cost containment is only being addressed for the whole District, not for the refining sector. WSPA asks that cost containment be more detailed and by sector.***

**Air District Response to Comment 7:** The District produces reports each year that are available for public review that provide revenue and expense information to the public. The annual District Budget, annual Cost Recovery Study, and annual Amendments to Regulation 3 (Fees) Staff Report contain the key information on the District's budget, cost containment, and fee assessment.

***Comment 8: WSPA requests that the Risk Assessment Fee should be refundable per Regulation 3-305 Cancellation or Withdrawal: Fees if the BAAQMD has not conducted that Risk Assessment prior to an application being cancelled or withdrawn.***

**Air District Response to Comment 8:** The District agrees with this proposal and will propose this amendment to Section 3-305.

***Comment 9: WSPA comments that full cost recovery assessment has not been conducted since 2011 (for 2010 data). WSPA understands that the District expects to release a Request for Proposal for an Air District Cost Recovery Study in the next few months. WSPA appreciates this effort. WSPA asks that this Cost Recovery Study include a clear analysis and justification of the District's cost containment efforts for the heavy industry subset of the overall budget, and explanation for fees assessments. Further, WSPA asks that the analysis include explanation why the 5% cost recovery closure has not been attained and what new measures the District is planning to implement to contain costs going forward.***

**Air District Response to Comment 9:** In response to your specific comments on the District's cost recovery status and schedule fee increases, the Cost Recovery Study we will be undertaking will identify the drivers of fee-related costs as well as the appropriate methods and consequent results. It will also point to any possible cost-saving measures. However, with the exceptions of Schedules T, W, and X, schedules are not specific to refineries or to the heavy industry sector, so a vertical analysis for those sectors or industries would not be possible.

Thank you for your comments.

Regards,



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